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FEE TRANSMITTAL

for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1050.00

Complete if Known

Application Number	To be assigned
Filing Date	April 7, 2004
First Named Inventor	Clifton Miller
Examiner Name	To be assigned
Art Unit	To be assigned
Attorney Docket No.	LP-02-021

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit
Account
Number
Deposit
Account
Name

06-1838

Francis Law Group

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	385
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$) 385

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid	
17	-20** = 0	9	0	
Independent Claims	2	-3** = 0	43	0
Multiple Dependent				

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	\$665
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	


Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 665

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Ralph C. Francis	Registration No. (Attorney/Agent)	38,884	Telephone	510.769.9800
Signature		Date	04/07/04		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

LP-02-021

First named inventor: Clifton Miller

Application No.: To be assigned

Art Unit: To be assigned

Filed: April 7, 2004

Examiner: To be assigned

Title: A Paint Sealer for Use
Within Paint Cans

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

04/14/2004 HLE333 00000048 10822880

01 FC:245 665.00 OP

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 665 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☐ is enclosed herewith.

B. The issue fee of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

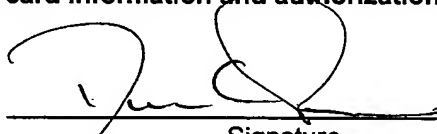
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

04/07/04

Date

Telephone

Number: (510) 769-9800



Signature

Ralph C. Francis

Typed or printed name

1808 Santa Clara Ave

Address

Alameda, CA 94501

Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

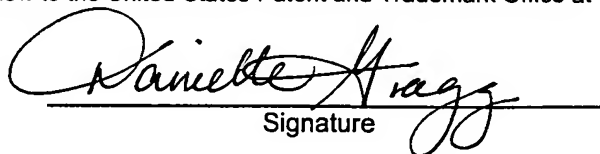
I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

4-7-04

Date



Signature

Danielle Gragg

Type or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:)
)
CLIFTON MILLER)
)
FOR: **A Paint Sealer for Use Within**)
Paint Cans)
)
SERIAL NO: **to be assigned**)
)
FILED: **April 7, 2004**)
)
ART UNIT NO: **to be assigned**)
)
EXAMINER: **to be assigned**)
)
Attorney Docket No: **LP-02-021**)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Statement of Unintentional Delay
Pursuant to 37 C.F.R 1.137(b)

Dear Sir:

On June 4, 2002, PCT Application No. PCT/AU02/00709 was duly filed. A copy of the noted PCT Application is enclosed herewith.

In the months preceding the 30-month national filing deadline, Applicant, C. Miller, was exploring commercial opportunities in Europe and the U.S. Since the 30-month deadline was approaching fast, our Associate in Australia, LesicarPerrin, advised Mr. Miller that an option he should consider was to withdraw priority and, since the invention was not prior used or published, the only downside to withdrawing priority was the loss of the priority date. Mr. Miller agreed with the suggested course of action and on Friday, December 5, 2003 instructed LesicarPerrin to withdraw priority; the 30-month deadline being on **Saturday**, December 6,

2003. On **Monday, December 8, 2003**, Dr. Drazen Lesicar of LesicarPerrin instructed his staff to withdraw priority. Unknown to Dr. Lesicar, after he signed the request to withdraw priority letter, the letter was sent by one of his junior associates through normal post rather than being fax or couriered. The request to withdraw letter was thus received at the AU Patent Office on December 9, 2003. Unlike U.S. practice, in Australia, the date of receipt of a document is not the date that is posted, but rather the date that it is actually received by the AU Patent Office.

Dr. Lesicar was thus surprised to receive the notice from the International Bureau that the withdrawal of priority had been accorded a **December 9, 2003** effective date. The withdrawal of priority was thus ineffective. This notice was received in late January.

Promptly upon receipt of the notice from the International Bureau, Dr. Lesicar wrote to the Bureau advising them of the mistake. In response, the International Bureau advised Dr. Lesicar that the December 9, 2003 date was provided by AU Receiving Office.

Dr. Lesicar then contacted the AU Patent Office and spoke directly to the Deputy Commissioner. The Deputy Commissioner advised Dr. Lesicar that unfortunately the wording of Article 48 makes it clear that once the 30-month date passes, the local receiving office has no authority to grant extra time to act and only individual national offices have the authority to grant additional time to commence national phase prosecution in their respective countries.

In the interim, an Associate in Germany was able to withdraw the request to withdraw priority letter. Priority has thus been effectively restored.

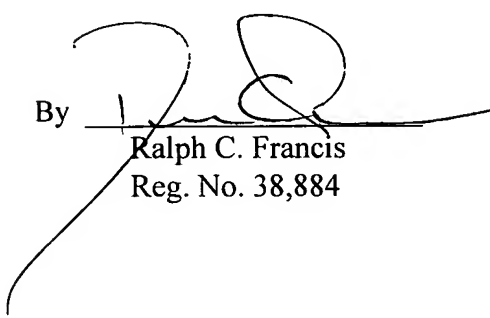
Shortly thereafter, our office was advised of the unintentional error in withdrawing priority and instructed to seek revival of the noted PCT Application and file a national phase Application in the U.S.

Applicant accordingly respectfully submits that the delay in filing the above referenced national phase application was unintentional and respectfully requests that the priority PCT Application be revived.

The Commissioner is hereby authorized to charge any additional fees, or credit any overpayment to Deposit Acct No. 06-1838.

Respectfully submitted,
Francis Law Group

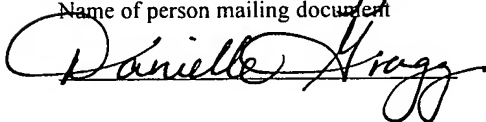
By


Ralph C. Francis
Reg. No. 38,884

Dated: April 7, 2004
FRANCIS LAW GROUP
1808 Santa Clara Avenue
Alameda, CA 94501
(510) 769-9800

I hereby certify that this document is being deposited with the United States Postal Service on this date 4.7.04
in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EL994387055US addressed to
the Attn: Office of Petitions; Mail Stop PCT; Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450.

Danielle Gragg
Name of person mailing document



APPENDIX I

Title: A Paint Sealer for Use within Paint Cans

Accompanying Application Parts:

Petition for Revival Under 37 C.F.R 1.137(b)
Statement of Unintentional Delay
International Search Report